



Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Department for the Blind and Vision Impaired
Virginia Administrative Code (VAC) citation	22 VAC 45-50
Regulation title	Regulation Governing Provision of Services in Vocational Rehabilitation
Action title	Promulgating new regulations to replace existing regulations
Document preparation date	October 31, 2005

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The purpose of the proposed action is to repeal the regulation concurrently with the promulgation of a new regulation (22 VAC 45-51). The current regulation was last revised in 1990 and requires revisions to ensure consistency with federal regulations. New regulation adds detailed federal citations for State Vocational Rehabilitation Services Programs and removes agency policy language and two duplicative sections that are referenced in other sections of regulation according to federal citations. Overall, the proposed new regulations update the existing regulations.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

[Code of Virginia § 51.5-65](#) authorizes the Commissioner to promulgate regulations to carry out the provisions of this title.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed. Include the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.

The regulation will include the agency name change and replacement of agency policy language with regulatory language derived directly from the federal regulation (34 CFR Part 361.)

New regulations provide clearer articulation of vocational rehabilitation regulations for citizens who are blind or vision impaired.

Detail includes:

1. Change of agency name from Department for the Visually Handicapped to Department for the Blind and Vision Impaired throughout.
2. Updates state definitions to accurately reflect federal definitions.
3. Clarifies the addition of referrals of individuals made through the One-Stop service delivery systems established under section 121 of the Workforce Investment Act of 1998.
4. Adds presumption of eligibility for services for individuals who are receiving SSI/SSDI as reflected in federal regulations.
5. Clarifies Order of Selection for services.
6. Removes agency policy language related to scope of services and adds federal citations for scope of services.
7. Removes agency policy language related to the Individualized Plan for Employment (IPE) and adds detail from federal citation.
8. Removes agency policy language related to rates of pay.
9. Removes agency policy language related to participation in cost of services.
10. Expands review of agency determinations to reflect federal regulations and changes the name of the Department for the Rights of Virginian's with Disabilities to the Virginia Office for Protection and Advocacy.
11. Expands state regulation to include federal citation regarding periodic review of extended employment in nonintegrated settings and ineligibility closures.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.

DBVI administration considered revision of existing regulations but found changes to be substantial.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability.

Blind or vision impaired citizens, their family members, consumer groups, state and local government entities, and others in Commonwealth benefit from the promulgation of new regulations that are clearer to understand and cite federal regulations governing the provision of vocational rehabilitation services.